

**Big Cypress National Preserve
ORV Advisory Committee Meeting
August 30, 2012**

Minutes

The Big Cypress National Preserve (BICY) ORV Advisory Committee (ORVAC) held their regularly scheduled meeting on August 30, 2012, at the Big Cypress Swamp Welcome Center, Ochopee, Florida. The meeting was called to order at 3:00 p.m. by Pedro Ramos, BICY Superintendent.

Committee Members Present: Manley Fuller, Karl Greer, Curt Witthoff, Franklin Adams, John Adornato, Robin Barnes, Brad Cornell, David Denham, Win Everham, Chuck Hampton, Wayne Jenkins, Laurie Macdonald, Barbara Jean Powell, Jenny Richards, Dennis Wilson. **Not Present:** Jorge Gutierrez, Jim Coletta. **BICY Staff Present:** Pedro Ramos, J. D. Lee, Damon Doumlele, David Fireman, David Hamm, Nikita Carty, Renee Mackenzie, Bob DeGross, Steve Schulze, Susan Rossi, Ron Clark.

There were approximately 15 members of the public present.

The meeting was facilitated by Delia Clark.

Mr. Ramos opened the meeting by thanking everyone for coming and acknowledged that the NPS and ORVAC had a wonderful trip to the field that morning to look at some of the issues that are commonly discussed at Committee meetings. After leading the Pledge of Allegiance, Mr. Ramos turned the meeting over to Ms. Clark, who stated that the agenda would be shortened due to the morning field study trip. Ms. Clark explained the public comment periods and noted that the meeting was being videotaped for the record.

ORVAC Business. The minutes of the May 2012 meeting were approved with the following corrections:

- Page 4, first paragraph under ORV Management in Zone 3—Further Committee Discussion: “post” should read “most”
- Page 4, last paragraph: Ms. Macdonald should be described as being in favor of the rectangular trail being a primary trail

Ms. Rossi explained to the Committee that their travel vouchers now must have original signatures.

Ms. Clark asked the Committee to be thinking about next year’s meeting calendar to be approved at the November meeting. The most likely meeting months will be February, May, August, and November.

Ms. Powell read a letter from David Vatter requesting trails to specific destinations in Zone 3.

Superintendent's Report. Mr. Ramos recognized David Fireman, the new BICY Chief Ranger. Mr. Ramos acknowledged the Bear Island lawsuit decision in favor of plaintiffs, and he noted that the judge said that more environmental analysis should have been done prior to NPS opening the Bear Island trails in 2007. NPS has fully complied with the judge's order. The recreation access point at I-75 Mile Marker 51 is almost completed, and NPS will assume responsibility and manage the site upon completion. The Environmental Assessment for the ORV access points and turn lanes has been completed. Funding is anticipated for improving the Monroe Station, Skillet North, Pace's Dike, and Boundary Line access points. Three ORVAC members' terms will be expiring soon, and they have agreed to serve another term. Mr. Ramos acknowledged another ongoing lawsuit pertaining to the Addition GMP and announced that the judge has dismissed the claim pertaining to the ORVAC. Mr. Ramos asked the Committee to not get distracted by the events of the last five years.

In response to a question from Mr. Wilson, Mr. DeGross explained how the Skillet North access point and turn lane would be developed.

Review of Field Study Trip Observations. Mr. Ramos stated that the Committee has never had an opportunity to get out in the woods together. He said that it is critical for the members to have common ground and context to be effective as they work on the issues. Bear Island was chosen because it has been off limits for years. Mr. Ramos did not expect the Committee to immediately recommend the next steps to be taken in Bear Island.

Mr. DeGross described the Bear Island Unit and explained that the Committee was taken there primarily to see some of the issues BICY is faced with in managing the ORV trail system. Currently there are approximately 21 miles of primary trails and one secondary trail 0.34 mile in length. In 2007, through public comment and internal review, the NPS added the Hinson, Cypress Camp, and Plains trails to the Bear Island trail system, along with some associated secondary trails. These trails have been closed by the judge's order, and Mr. DeGross showed maps illustrating the 2007 and current trail configurations. Mr. DeGross explained that when the NPS assesses trails, one item they look for is compliance, i.e., to what degree users are staying on the trails. He stated that compliance in Bear Island is very good, and he explained how trail analysis is done. Another item the NPS looks at is trail response, i.e., how the trail is responding to use. The overall trail response in Bear Island is also very good. Monitoring is also done and involves repeatedly visiting a trail site on a regular basis to see how the trail is reacting in that area.

Mr. Adornato commented that he expected compliance and response in Bear Island to be high, because the trails have been in place for a long time in comparison to other areas where there was dispersed use until very recently. Mr. Ramos stated that the concept of a potential trail connection to the Addition is a fact that the Committee should take into account when deliberating and discussing what the next steps in Bear Island should be. Mr. Cornell liked the concept of seasonality of trail access. Ms. Macdonald liked the idea of trees being planted to show trail closures for vehicles. She was pleased to see the high level of compliance in that area. Mr. Greer pointed out the differences in levels of use between Bear Island and Turner River trails resulting in differences in compliance. Dr. Everham asked if there were opportunities to learn from the records of off-trail use and the recovery of those systems, and Mr. DeGross

responded yes and explained the different kinds of administrative off-trail use at BICY. Mr. Adornato discussed the “go-arounds” and said that a hole in the trail such as one that he saw that morning can be fixed in a way to avoid making a “yellow brick road” but makes it safer, provides the desired user experience, and avoids the go-around. Mr. Wilson asked if law enforcement was doing anything about residents on Turner River Road going off-trail. Mr. Fireman responded that when violations are known, they are considered criminal activities regardless of who goes off-trail. If anyone sees off-trail activity, they should immediately call Everglades Dispatch, who will notify the Ranger on duty to investigate. Ms. Powell asked if it was feasible in the future for the ORVAC to evaluate some of the closed Bear Island trails, through the right process, for opening as secondary trails or as connectivity to the Addition. Mr. Ramos replied that his request is that the Committee take a look at the Bear island trail network, consider it within the parameters of the ORV management plan, as well as the recent judge’s opinion, and give the NPS a recommendation as to whether there is any need for additional work in that area. Mr. Adams stated that he would like to see all of the closed trails reopened. Mr. Fuller felt that there should be permanent, long-term vegetation monitoring quadrats on closed trails. Dr. Richards noted that Bear Island would make a good reference area because trails have been designated for two decades and can act as a control for areas that are newly designated. Dr. Everham felt that if the Committee were going to reopen court decisions, he would need guidance as to which ones they would look at. Ms. Macdonald pointed out that at some point a person needs to recognize whether or not they and their vehicles are up to continuing on a trail. In response to a question concerning tribal access, Mr. Ramos explained that the Miccosukee and Seminole tribes have privileges that include traditional use of vehicles to gather resources that they use in their customary use and occupancy.

Current ORVAC Tasks and NPS Requests. Mr. DeGross listed specific tasks that the NPS is asking the ORVAC to do. These include 1) education, 2) vehicle and equipment specifications, 3) monitoring, 4) Stairsteps Unit trail identification, and 5) review of trail suggestions for the Turner River and Corn Dance units.

Mr. Fuller suggested using universities and other federal agencies to assist NPS in long-term ecological monitoring. He also suggested using areas of BICY that have been closed to ORVs, such as the Loop Unit, to assess vegetation recovery.

Mr. Ramos discussed the Bear Island lawsuit and said that the judge’s comments on secondary trails will cause the NPS to take a look at what the consequences might be with respect to all of the work that has been done in the Turner River and Corn Dance units, particularly in regards to secondary trails. Mr. Ramos asked the Committee to review their previous secondary trail memorandum against the ORV management plan and the judge’s opinion, make any edits or revisions as necessary, and review all the work done in the Turner River and Corn Dance units concerning secondary trails. The goal will be to see if there are any secondary trails which would cause concern with regard to compliance with the plan or consistency with the judge’s ruling. This review is a high priority, and the Committee should begin immediately.

Discussion ensued as to whether the Committee should undertake the review and make it an agenda item for the next meeting or refer it to a new or existing subcommittee. Mr. Fuller and Mr. Adornato felt that the NPS should provide interpretational guidance or sidebars to the

Committee. Ms. Powell requested that the Committee be emailed copies of the three documents they are to review so that everyone can be on the same page.

Stairsteps Trail Network. Ms. Powell reported on behalf of the Corn Dance/Stairsteps Subcommittee, and the report is included as an attachment to these minutes. The Committee agreed that the written report should be provided to them so that they can review it and be prepared to discuss at the next meeting. It should also be posted online so that the public can review and comment.

Public Comment on Stairsteps Trail Network and Field Study Trip Observations. Eric Kimmel stated that he could answer questions concerning the Stairsteps Unit. He hoped that something could be done soon in airboat country, as there is no access and no one is out there anymore. He said that there are several destinations in Ochopee Prairie that will be submitted to the Committee.

Shannon Larsen (Ancient Trees) had concerns over the area of critical habitat and felt that evaluations of the area should be made easily available to the public. She was also concerned that providing special access for a group could lead to other clubs or people also wanting special access. She said that airboats should not be in an area if buggies have to go in and make trails for them.

Bobby C. Billie (Council of the Original Miccosukee Simanolee Nation of Florida Aboriginal Peoples) noted that when he was a child the Addition had no oil wells or trails; it was natural. The trails have changed the whole environment. He would like to see the roads taken out. The area should be protected for the animals and no one should be allowed in.

Paul Wylie (Everglades Conservation and Sportsmen's Club) said his club has 40 acres and donated 40 acres to the NPS. His members feel that they should have access to the Big Cypress.

General Public Comment. Eric Kimmel noted that trail recovery is fast and varies from season to season.

Scott Harap (Black Sheep 4 x 4's) wanted to know why the Committee did not ask the local clubs to go with them on the field study, as they know the area very well.

John Hoxie (Black Sheep 4 x 4's) wanted to know if there had been any thought given to appealing the judge's ruling. He also had questions concerning where to get the ruling, where to find postings of the Committee's actions, and NEPA.

Barry Natt suggested using old trails and letting others replenish themselves rather than using the same trails over and over.

Shannon Larsen (Ancient Trees) was glad that the Committee was able to go out and see the landscape. She said that the Army Corps of Engineers set the criteria for trail stabilization, not Committee members. She is concerned that although most of the Committee members are not attorneys, they are being asked by the NPS to make a legal interpretation.

Bobby C. Billie (Council of the Original Miccosukee Simanolee Nation of Florida Aboriginal Peoples) said that people are coming in and disturbing his people's land without permission. Looking back in history, they are ignoring what their government has said, and they are ignoring what their judge has said.

Lyle McCandless (Big Cypress Sportsmen's Alliance, Big Cypress Stakeholders Group) said that he had sent Mr. Ramos a letter and had not gotten a reply. The letter requested that the NPS immediately put a plan in place to go back and correct the mistakes that were made in reopening the Bear Island trails. NPS is asking the Committee to render an opinion on the judge's order, which is irregular and probably illegal. He thinks the judge may have questioned the Bear Island secondary trails based on Turner River Unit secondary trails. The Bear Island secondary trails fit the definition in the ORV plan.

Bill Clark (Big Cypress Sportsmen's Alliance) said that none of the secondary trails that were closed in Bear Island were greater than 1-1/2 miles long; most were about a mile long and had specific places to go. The judge did not say the closed trails were unsustainable, only that the proper procedure was not followed in opening them up. Mr. Clark would like to see the trails reopened in his lifetime.

Shelly Mascaro (Everglades Conservation and Sportsmen's Club) clarified that her club has 150 members but not 150 people with buggies looking for direct access into the Stairsteps Unit. The majority just want to be able to walk in. She estimated 20-30 are looking for direct buggy access.

Committee Open Discussion, Wrap-up, and Proposals for Next Meeting. Mr. Adornato noted that the Stairsteps Subcommittee easily came to consensus on all items except one. The Pace's Dike issue was a good example of compromise and working toward a solution that was amenable to everybody. He reiterated that the National Parks Conservation Association defended the ORV plan in court and sees the ORVAC as implementing that plan. The lingering issue involves the labeling of trails in Zones 2 and 3 as secondary versus primary.

Ms. Clark told the Committee that they will receive Ms. Powell's notes on the Stairsteps Subcommittee and links or documents concerning the secondary trails memo, the judge's order, directions on where to find the secondary trail discussion in the ORV plan, and the Federal Advisory Committee Act.

The meeting adjourned at 6:15 pm.

Attachment

BICY ORVAC Corn Dance/Stairsteps Subcommittee

Meeting Report

July 21, 2012

Attendance

NPS staff: Bob DeGross

ORVAC members: Wayne Jenkins, Subcommittee Chair; Dennis Wilson; Robin Barnes; John Adornato; Barbara Jean Powell; David Denham

Members of the public invited to share their specific knowledge of the area being evaluated: Charles Barley, Frank Denninger, and Eric Kimmel

Call to order

Wayne Jenkins called the meeting to order and thanked attendees for participating.

Bob DeGross reminded attendees that at the last meeting the subcommittee made recommendations which he submitted in writing to the full committee at the last ORVAC meeting (see May 5, 2012 memo). He indicated that management issues would be the primary focus of this meeting.

Bear Island litigation

A discussion was held related to a recent court ruling associated with the Bear Island litigation. Several attendees questioned the implications of the ruling on the past five years of ORVAC work, as well as future work, and any committee recommendations derived from those efforts. For example, there is a perception among some subcommittee members that the Judge's ruling appears to invalidate ORVAC's consensus recommendations related to secondary trails (including limited loop trails) and multi-use recreation destinations.

Several attendees questioned how ORVAC can fulfill its charge of reaching consensus recommendations knowing there is a possibility issues will later be brought before the Court by a fellow committee member(s) or the organization with whom the committee member(s) is employed.

Subcommittee recommendation: The subcommittee recommended that NPS provide a legal opinion on ORVAC's function to date and into the future.

Stairsteps trail system

Mr. DeGross distributed a list of five questions he had prepared for the subcommittee:

1. Should there be connectivity between Zones for those vehicles that are allowed in those zones?

Subcommittee recommendation: There needs to be connectivity between Zone 3 and Zone 4 for vehicles permitted in those units.

2. If there is connectivity should wheeled ORVs and airboats be allowed on all trails in Zone 3. If yes, how should it be managed?

Subcommittee recommendation: Yes, all trails should be open to whatever type of vehicle is permitted in the unit, with operator discretion dictating the type of vehicle.

3. Should we have wheeled ORV trails only and Airboat trails only?

Subcommittee recommendation: No

4. Should we consider having trails in the portion of Stairsteps Zone 4 that was closed due to proposed designation of critical habitat for Cape Sable seaside sparrow (CSSS) in light of USFWS having rejected critical habitat designation?

Subcommittee recommendation: Yes, the closed sparrow zone should be evaluated for reopening through adaptive management using all available science, including existing science and new, if needed.

5. Should we consider a distinction between primary and secondary trails in Zone 4?

Subcommittee response: This is not addressed in the ORV Plan, but it would be good to do.

Dual vehicle use in Stairsteps Zone 3

Mr. DeGross reminded the subcommittee that, unlike Zone 4 which the ORV Plan designated for airboat use only, Zone 3 is designated for wheeled vehicles and airboats. Subcommittee members observed that it seems inconsistent with this dual-use designation that the ORV Plan limits Sig Walker access site to airboat access only. Historically, this site was used by wheeled vehicles and airboats.

Subcommittee recommendation: Through adaptive management the Sig Walker access site should be open to wheeled vehicles and airboats.

Issues related to access to destinations and trail mileage

Primary and secondary trail mileage to date: Mr. DeGross remarked that preserve-wide the trail mileage as mapped today would consist of approximately 362 miles of primary trails and 175 miles of secondary.

Paces Dike: The subcommittee discussed in depth how to address trails at Paces Dike which had previously been recommended as a secondary trail for the entire rectangular length. Mr. Adornato expressed the opinion that as depicted it meets the criteria for primary trails, and he would support them as such. He observed that three primary trails lead up to it, and it is six miles long. Mr. Kimmel pointed out important destinations that must be accommodated and urged subcommittee members to think outside the box to develop solutions.

Subcommittee preferred recommendation (full consensus) for Paces Dike destinations:

- a) No north/south primary trail on the east side
- b) All east/west segments designated as primary with short secondary trails to the areas known as Doc Wolf and Green Head
- c) A backup subcommittee recommendation was agreed upon with minority opposition
- d) A 2.50 mile secondary trail swinging north through the farm field to the historical Doc Wolf site
- e) A one mile primary trail from the red primary trail to the eastern airboat trail
- f) A 1.4 mile secondary trail from the eastern airboat trail to Green Island

Stairsteps Zone 2: Mr. Adornato expressed concern with the length of trails and a loop trail depicted in the draft recommendation. Approximately 10 miles of primary trails are permitted, of which 8.3 miles have been identified, as well as 8.7 miles of secondary trails. Adornato also objected to trails across what

appeared on the map to be prairie habitat. A subcommittee member identified the prairie as having rock substrate.

Ms Powell called attention to the omission of her recommendation at a prior subcommittee meeting for a trail from the Skillet South access site providing access to George's Sawmill.

Mr. Adornato objected to several destinations referenced, observing that the ORV Plan stipulates "destinations such as camp sites". He expressed the opinion that hunting and bird watching are not destinations. Mr. Jenkins responded that hunting is not a destination; however a place to hunt is a destination. Ms. Powell reminded the subcommittee that ORVAC had concurred that destinations are preferred locations from which preserve visitors could disburse on foot for multiple purposes.

Subcommittee recommendation related to Zone 2 trails: After having provided desired destinations, the subcommittee recommended that BICY staff determine the shortest, most direct route that meets the agency's criteria.

Landowner access accommodations for Everglades Conservation and Sportsman Club (ECSC): Ms. Powell reported on a request by the ECSC to reopen access for their membership to the gated culvert crossing immediately across Loop Road from their club grounds. She said this crossing was constructed during an ESCA/NPS/Everglades Protection Society partnership to minimize congestion at the Monroe Station access site. The request is for this access site and the short existing secondary trail leading to the designated primary trail to be available for club membership only. It is unlikely that a member of the general public would want to use it as there would be no public parking facilities for tow vehicles. Club members would provide volunteer labor to assist with reopening this trail.

Subcommittee position regarding providing landowner access at the culvert crossing built for that purpose, in order to minimize congestion at Monroe Station: The subcommittee has no objections to NPS moving forward with the club's request.